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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )

Petition of BellSouth for Waiver )

Defining Primary Lines )

Classification of Centrex Type )  
Dormitory Lines )

CC Docket No. 97-181

**AT&T OPPOSITION TO BELL SOUTH PETITION FOR WAIVER**

Pursuant to the Commission's Public Notice, DA 99-1217, released June 23, 1999, AT&T Corp. ("AT&T") submits the following opposition to the petition filed by BellSouth Telecommunications, Inc. ("BellSouth") seeking a waiver of the rules promulgated in the above-captioned proceeding so that it could treat all Centrex type lines to college and university dormitory rooms as primary residential lines for purposes of assessing presubscribed interexchange carrier charges ("PICCs") and subscriber line charges ("SLCs").

In its waiver petition, BellSouth asserts (at 2) that it designated all Centrex type dormitory lines as primary residential lines. This is, of course, contrary to the Commission's March 10, 1999 ruling in this proceeding, which treats a college dormitory room as a single service location and permits only one line at that location to be

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treated as primary.<sup>1</sup> BellSouth asserts (at 2) that absent a waiver it "must undertake a massive and costly effort to reclassify and re-rate dormitory service provided on numerous college and university campuses in the region."

BellSouth fails to meet the unique circumstances or special hardship standard required for grant of a waiver, because all price cap LECs are required to treat each college dormitory room as a single service location. The Commission should therefore deny BellSouth's waiver request.

BellSouth's waiver request does not even meet the threshold standard for grant of a waiver. As the Court of Appeals has admonished, the Commission may not "tolerate evisceration of a rule by waivers."<sup>2</sup> Accordingly, a party seeking a waiver must show "good cause therefore," which the

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<sup>1</sup> Defining Primary Lines, CC Docket No. 97-181, Report and Order, FCC 99-28, released March 10, 1999, para. 15 ("Order"). The Association for Telecommunications Professionals in Higher Education ("ACUTA"), Brown University ("Brown") and Moultrie Independent Telephone Company ("Moultrie") petitioned for reconsideration of the Order seeking to allow price cap local exchange carriers ("LECs") to continue to treat all lines into college dormitory rooms as primary residential lines. As AT&T showed in its Opposition to Petitions for Reconsideration (at 4), filed June 23, 1999, although the location definition will not permit multiple lines at the same location to be treated as primary, this is exactly what the Commission intended. Order, para. 22. Consistent with the Access Reform Order's objective to increase flat-rate recovery of local loops, only one line at a residential location will be given primary line treatment. This one line is sufficient to connect the residents of that location to the telephone network and to place local and long distance calls.

<sup>2</sup> WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972).

courts have interpreted to require a showing that "special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."<sup>3</sup> The Common Carrier Bureau has held that before it can grant a waiver request, it must find that an applicant has "shown such special circumstances as individualized hardship or inequity that warrant deviation from the Commission's . . . rules and [that] such deviation better serves the public interest."<sup>4</sup> BellSouth has not even attempted to show any unique hardship or burden from the implementation of the Commission's location definition for distinguishing primary residential lines.

The burden allegedly placed on BellSouth is not sufficient grounds for the Commission to grant a waiver request. All price cap LECs went through the same regulatory changes that BellSouth did; all price cap LECs are required to treat a dormitory room as a single service location; and all price cap LECs are required to take whatever steps are necessary to implement that definition.

Only BellSouth, however, contends that it is unable to accurately account for its dormitory lines under the location definition without incurring a massive burden.

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<sup>3</sup> Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164 (D.C. Cir. 1990); WAIT Radio v. FCC, *supra*.

<sup>4</sup> Petition for Waiver of Transport Rate Structure and Pricing Requirements, 9 FCC Rcd. 796, 800 (1994).

The notion that BellSouth (at 2) will have to conduct site visits to each college and "gather room location addresses, building and room numbers, and the number of service lines per room" is specious.

It appears based on the petitions for reconsideration of the Order filed by ACUTA, Brown and Moultrie, and as BellSouth tends to confirm (at 2-3) in stating that it does not maintain customer service records on students who are the end users, that the LECs (including BellSouth) typically bill Centrex lines to the college itself rather than to individual students. In order to properly administer its interstate tariff, BellSouth should already be able to verify the aggregate number of lines into dormitory rooms at each college or university so as to treat those lines, but not university administrative lines, as residential lines under its tariff.<sup>5</sup>

Because it is safe to assume that each dormitory room will have at least one telephone line, it is simply a matter of BellSouth determining the number of dormitory rooms at a given college or university. Any "residential" lines into student rooms that exceed the dorm room count

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<sup>5</sup> BellSouth at n.3, citing BellSouth Tariff F.C.C. No. 1, Section 4.6(c)(4) ("For dormitory quarters, however, the Telephone Company shall deem each line terminating therein a Primary Residential Local Exchange Service line.")

should be treated as non-primary lines and billed to the college as such.<sup>6</sup> This should not be an onerous process.

In all events, even assuming site visits were required to count dorm rooms and student lines, this could be readily accomplished as part of the installation of student phone lines at the beginning of the academic year. Thus, there is absolutely no basis for creating further cross-subsidies in the access charge scheme by treating all telephone lines to dormitory rooms as primary residential lines or granting BellSouth a lengthy 18-month waiver that would, in effect, allow it to achieve that same result.

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<sup>6</sup> Thus, a college with 1000 dorm rooms and 1500 student lines would be deemed to have 1000 primary residential lines and 500 non-primary residential lines.

WHEREFORE, the Commission should deny BellSouth's  
waiver petition.

Respectfully submitted,

AT&T CORP.

By /s/ Judy Sello  
Mark C. Rosenblum  
Judy Sello

Its Attorneys

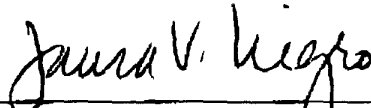
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June 30, 1999

CERTIFICATE OF SERVICE

I, Laura V. Nigro, do hereby certify that on this 30<sup>th</sup> day of June, 1999, a copy of the foregoing "AT&T Opposition to BellSouth Petition for Waiver" was served by U. S. first class mail, postage prepaid, to the party below.

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/s/   
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Laura V. Nigro